

# **EASEMENT APPROVAL GUIDELINES –**

## **10 STEPS TO CONVEYING A VOF EASEMENT**

**Step 1: Contact VOF.** The landowner contacts VOF to discuss what an easement is, how it works, and whether it might be appropriate for the landowner's property. VOF mails a packet of information on easements. The information is also available on VOF website: [www.virginiaoutdoorsfoundation.org](http://www.virginiaoutdoorsfoundation.org).

**Step 2: Review Information.** The landowner reviews the material, consults with family and/or legal and tax advisors, and indicates an interest in further exploration of an easement. Landowner and staff discuss possible easement provisions and questions particular to the landowner's parcel and situation.

**Step 3: Site Visit.** VOF staff and landowner arrange to meet and view the property. On site, the staff analyzes the property's features and the natural and open-space resources, and consults with the owner on long-term objectives. Staff consults with the landowner on easement terms that will meet the landowner's goals, protect the resources, and meet the standards of the Foundation.

**Step 4: Preliminary Agreement.** After consulting with advisors, landowner reaches a preliminary agreement with VOF on the proposed terms of the easement and property description. The terms are based on the Foundation's Guidelines and sample easement. Landowner or attorney for landowner contacts lender, if any, to arrange for subordination of mortgage. Landowner's attorney and VOF staff develop draft easement for landowner's review and subsequent VOF Board review.

**Step 5: Staff Research.** Staff completes research on the property, including:

- Determining the Comprehensive Plan designation and zoning classification of the property.
- Reviewing statewide planning documents, such as the VA Department of Transportation six-year plans, the Virginia Outdoors Plan, the Chesapeake Bay Preservation Areas Study, and/or Division of Natural Heritage database;
- Collecting maps of the property (U.S.G.S. topographic maps, aerial maps and tax maps) and survey plats if available for baseline documentation.

**Step 6: Board Approval.** Each easement proposal must be approved by VOF's Board of Trustees. The Board may accept the proposed easement, accept it subject to changes, or reject it. The Board meets quarterly, with the last meeting of the year being in early December and the agenda deadline approximately one month before. Following the meeting, the VOF staff will inform the landowner of the Board's action. If the Board conditioned approval on changes to the proposed terms of the easement, the landowner

must consider and agree to the changes in order to proceed. A change that results in a proposal less restrictive than that approved by the Board must return for re-approval. Board approval does not obligate the landowner to complete the easement. From the date of approval, the landowner may finalize and record the easement within two years.

**Step 7: Finalizing Easement Draft.** The landowner's attorney produces the final signature-ready deed, including the full legal property description, for review by landowner and VOF. The landowner then signs the easement, sends it to the lender, if any, for signatures of the lender and its Trustee, and delivers it to the VOF for signature. The easement is then recorded in the Clerk's Office of the County Circuit Court by VOF or the landowner's attorney.

**Step 8: Appraisal.** If the landowner intends to take a qualified tax deduction or claim a credit for the non-cash charitable gift, landowner engages an independent appraiser to determine the value of the gift. VOF strongly recommends use of *Certified General Appraiser*. VOF does not require an appraisal and is not involved in the appraisal process. Following the appraisal and the gift, landowner submits IRS Form 8283 to VOF for signature by which VOF acknowledges receiving the gift of easement. To satisfy IRS requirements appraisals should not be dated earlier than 60 days prior to the gift.

**Step 9: Baseline Documentation:** VOF staff completes the file for the easement by obtaining the standard documentation for the property. The file includes:

- a copy of the final easement;
- a topographic map showing the boundary of the property;
- an aerial map;
- a tax map;
- any available survey plats of the property;
- photographs of the property keyed to a map
- documents related to the property

**Step 10: Future Monitoring Visits:** In years following a completed easement, VOF will contact a landowner for permission to visit the property to ensure the provisions of the easement are being upheld. VOF staff is always available to answer questions of interpretation or requests for approval for timber plans or large-scale agricultural buildings requiring approval, or to respond to other inquiries.

***Note:** The landowner can change his or her mind about the easement at any time until the easement deed is signed and delivered to the Foundation. While these steps show the typical procedure, there are some situations where the order of these steps*

*varies. The process may take anywhere from a few months to more than a year to complete.*